

January 16, 2008

Clark Dyrud  
Commissioner  
Minnesota Department of Veterans Affairs  
Veterans Service Building, Second Floor  
20 West 12<sup>th</sup> Street  
St. Paul, MN 55155-2006

**Re: *David P. Roble, Petitioner v. St. Paul Public Schools, ISD #625,*  
*Respondent*  
*OAH Docket No. 7-3100-19233-2***

Dear Commissioner Dyrud:

Please allow this Letter/Recommendation to summarize the status of this matter. Because of the circumstances outlined below, IT IS RECOMMENDED that this case be DISMISSED, WITHOUT PREJUDICE.

On or about August 27, 2007, the Petitioner, David Roble, was notified by the Respondent that he was being laid off from his position as a Greeter-Hall Monitor at Phalen Lake Elementary School, because his position at Phalen Lake was being abolished due to budget cuts.

Mr. Roble filed a Petition for Relief under the Veterans Preference Act on September 14, 2007, which was the last day for which he had been paid by the Respondent. The matter was forwarded by the Department of Veterans Affairs to the Minnesota Office of Administrative Hearings, which scheduled an evidentiary hearing in the case to commence on December 13, 2007.

At the hearing, Jeffrey G. Lalla, General Counsel for the St. Paul Public Schools, ISD No. 625, informed the Administrative Law Judge that, while he was preparing for the hearing, Mr. Lalla discovered that an administrative error had been made by the District's staff. Under the terms of the collective bargaining agreement between the St. Paul Federation of Teachers and the District, Mr. Roble should have been reassigned, rather than laid off, from his position as a Greeter-Hall Monitor at Phalen Lake Elementary. Mr. Lalla indicated that the District would soon be offering a new position to Mr. Roble, one that was consistent with his "work limitations" (not at a senior

Commissioner Clark Dyrud

April 27, 2011

Page 2

high school). Such action is consistent with the bargaining agreement's provisions applicable to teachers and teacher aides, the job classification which includes people such as Mr. Roble, who hold positions as Greeter-Hall Monitors.

Mr. Roble understands that in order to accept whatever new position is offered by the Respondent, he will have to agree to "bump" another person holding a position at a different school site than Phalen Lake Elementary.

Mr. Lalla explained that the misunderstanding leading to Mr. Roble's being laid off at the end of the summer involved whether the Petitioner qualified as a "highly-qualified paraprofessional" under the No Child Left Behind Act. The District's administration has now resolved that issue in favor of Mr. Roble, and intends to reinstate him to a position of Greeter-Hall Monitor, and agrees further to provide any back pay due and reinstate Mr. Roble's benefits retroactively.

Mr. Roble requested that the Administrative Law Judge recommend to you to dismiss the matter without prejudice, in the unlikely event that the Respondent fails to offer him an opportunity to bump into an appropriate position. As noted above, I have granted his request. With the transmittal to you of this Letter/Recommendation, this Office's file is closed.

Thank you for your consideration.

Very truly yours,

/s/ Richard C. Luis

RICHARD C. LUIS  
Administrative Law Judge

Telephone: (651) 361-7843

RCL:mo

cc: Jeffrey Lalla  
David Roble